



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

and

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P. (MD)Nos.5338 and 5339 of 2020

and

W.M.P. (MD)Nos.4624 to 4627 of 2020

W.P. (MD)No.5338 of 2020

Rajamani

... Petitioner

versus

1. The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Tourism, Culture and Charitable Department,
Fort St. George,
Chennai - 600 009.

2. The Commissioner,
Hindu Religious and Charitable
Endowments (Admn.) Department,
Uthamar Gandhi Salai,
Nungambakkam,
Chennai.

3. The Joint Commissioner,
Hindu Religious and Charitable
Endowment (Admn.) Department,
Madurai.

4. The Assistant Commissioner,
Hindu Religious and Charitable
Endowment (Admn.) Department,
Madurai.

5. The Assistant Commissioner/
Executive Officer,
Arulmighu Koodalazhagar Temple,
Madurai.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for the issuance of writ of certiorari, to call for the records pertaining to the impugned order passed by the 1st respondent in G.O.(Ms) No.52 dated 18.02.2020 confirming the order passed by the 2nd respondent in R.P.196/2017 D2, dated 08.07.2017 and the order passed by the 3rd respondent in M.P.No.23/2016, dated



20.01.2017 and quash the same.

For Petitioner : M/s.J.Anandhavalli
For R1 to R4 : Mr.V.R.Shanmuganathan,
Special Govt. Pleader
For R5 : Mr.S.Manokar

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W.P. (MD)No.5339 of 2020

R.Pappathi

... Petitioner

versus

1. The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Tourism, Culture and Charitable Department,
Fort St. George,
Chennai - 600 009.

2. The Commissioner,
Hindu Religious and Charitable
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Uthamar Gandhi Salai,
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3. The Joint Commissioner,
Hindu Religious and Charitable
Endowment (Admn.) Department,
Madurai.

4. The Assistant Commissioner,
Hindu Religious and Charitable
Endowment (Admn.) Department,
Madurai.

5. The Assistant Commissioner/
Executive Officer,
Arulmighu Koodalazhagar Temple,
Madurai.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for the issuance of writ of certiorari, to call for the records pertaining to the impugned order passed by the 1st respondent in G.O.(Ms) No.68 dated 24.02.2020 confirming the order passed by the 2nd respondent in R.P.146/2017 D2, dated 08.07.2017 and the order passed by the 3rd respondent in M.P.No.10/2016, dated 27.12.2016 and quash the same.

For Petitioner : M/s.J.Anandhavalli
For R1 to R4 : Mr.V.R.Shanmuganathan,
Special Govt. Pleader



For R5

: Mr.S.Manokar

COMMON ORDER

[Order of the Court was delivered by **S.S.SUNDAR, J.**]

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The petitioner in these two writ petitions are tenants under the 5th respondent in respect of the premises owned by Arulmighu Koodalazhagar Perumal Temple, Madurai.

2. It is stated that the petitioners are tenants in respect to a small portion of building in and around the Theppakulam of Arulmighu Koodalazhagar Temple in Madurai.

3. This Court takes judicial notice of the fact that the eviction of tenants in that location was also felt in public interest, while issuing directions in an earlier writ petition. The tenants are in occupation of the premises paying a very meagre sum.

4. it is admitted now that the premises belong to the 5th respondent Temple and that the petitioners have no right except the right as a tenant. It is also admitted that proceedings were initiated under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act (hereinafter referred to as "the Act") after terminating tenancy and as against the order passed by the Deputy Commissioner, revisions were preferred before the Commissioner of HR&CE under Section 21 of the Act. The Commissioner, HR&CE, also passed an order in the revision petitions filed by the petitioners in R.P.196/2017 and 146/2017 respectively. The petitioners had challenged the orders passed by the Commissioner, HR&CE, before this Court by way of writ petitions in W.P.(MD)Nos.19369 and 19370 of 2017 along with others. The writ petitions, vide order dated 21.12.2017, were disposed of by directing them to prefer further revision petitions, before the Government under Section 114 of the HR&CE Act. Therefore, the petitioners approached the Government by filing the revision petitions in PR Nos.196/17 and 146/17 respectively. The Government, after considering the submissions of the petitioners, dismissed the revision petitions, came to the conclusion that all the petitioners are only encroachers and the encroachment of the petitioners is hindrance to the public causing nuisance.

5. It is also admitted by the learned counsel for the petitioners that in similar cases, the Division Bench of this Court dismissed similar writ petitions, where the revisions filed under Section 114 of the HR&CE Act before the Government were dismissed.

6. We do not find any substantial issue that would save the petitioners from continuing in possession of the property. Even assuming that the petitioners are tenants, the tenancy has come to



an end. One of the grounds in the writ petitions is that the respondents have initiated action under Section 78 of the HR&CE Act to remove the encroachment and simultaneously initiated action for fixation fair rent for the premises.

7. It is to be noted that the petitioners are not the original lessees. The petitioners have taken the property either as sub-lessee or by an understanding or arrangement with the main lessee, who is not in possession. There is no consent from the 5th respondent for taking the property on lease. Therefore, the petitioners are liable to be treated as encroachers for all purposes. Further, there is no valid ground in the writ petitions.

8. We do not find any irregularity or illegality in the order passed by the first respondent by dismissing the writ petitions filed by the petitioners. Accordingly, the Writ Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar(CS)

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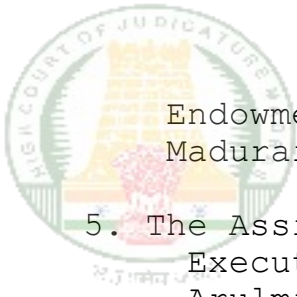
To

1. The Principal Secretary,
Tourism, Culture and Charitable Department,
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Chennai - 600 009.

2. The Commissioner,
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Madurai.

+2 CC to M/s.J.ANANDAVALLI, Advocate (SR-11707[F] dated
13/03/2020)

+2 CC to M/s.S.MANO HAR, Advocate (SR-11959[F] dated 17/03/2020)

W.P. (MD)Nos.5338 and 5339 of 2020
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AP(18/05/2020) 5P 10C